

§ 4.402

(v) Be double-spaced except for the case caption, argument headings, long quotations, and footnotes, which may be single-spaced;

(vi) Have margins of at least 1 inch;

(vii) Be numbered sequentially, starting on the second page; and

(vii) Be stapled in the upper left-hand corner, if stapled, or bound on the left side, if bound.

[36 FR 7186, Apr. 15, 1971, as amended at 36 FR 15117, Aug. 13, 1971; 68 FR 33803, June 5, 2003; 75 FR 64664, Oct. 20, 2010]

§ 4.402 Summary dismissal.

An appeal to the Board will be subject to summary dismissal by the Board for any of the following causes:

(a) If a statement of the reasons for the appeal is not included in the notice of appeal and is not filed within the time required;

(b) If the notice of appeal is not served upon adverse parties within the time required; and

(c) If the statement of reasons, if not contained in the notice of appeal, is not served upon adverse parties within the time required.

(d) If the statement of standing required by § 4.412(b) is not filed with the Board or is not served upon adverse parties within the time required.

[36 FR 7186, Apr. 15, 1971, as amended at 47 FR 26392, June 18, 1982]

§ 4.403 Finality of decision; reconsideration.

(a) The Board's decision is final agency action and is effective on the date it is issued, unless the decision itself provides otherwise.

(b) The Board may reconsider its decision in extraordinary circumstances.

(1) A party that wishes to request reconsideration of a Board decision must file a motion for reconsideration with the Board within 60 days after the date of the decision.

(2) The motion may include a request that the Board stay the effectiveness of its decision.

(3) Any other party to the original appeal may file a response to a motion for reconsideration with the Board within 21 days after service of the motion, unless the Board orders otherwise.

43 CFR Subtitle A (10–1–11 Edition)

(4) A motion for reconsideration will not stay the effectiveness or affect the finality of the Board's decision unless so ordered by the Board for good cause.

(5) A party does not need to file a motion for reconsideration in order to exhaust its administrative remedies.

(c) A motion for reconsideration must:

(1) Specifically describe the extraordinary circumstances that warrant reconsideration; and

(2) Include all arguments and supporting documents.

(d) Extraordinary circumstances that may warrant granting reconsideration include, but are not limited to:

(1) Error in the Board's interpretation of material facts;

(2) Recent judicial development;

(3) Change in Departmental policy; or

(4) Evidence that was not before the Board at the time the Board's decision was issued and that demonstrates error in the decision.

(e) If the motion cites extraordinary circumstances under paragraph (d)(4) of this section, it must explain why the evidence was not provided to the Board during the course of the original appeal.

(f) The Board will not grant a motion for reconsideration that:

(1) Merely repeats arguments made in the original appeal, except in cases of demonstrable error; or

(2) Seeks relief from the legally binding consequences of a statute or regulation.

[75 FR 64664, Oct. 20, 2010]

§ 4.404 Consolidation.

If the facts or legal issues in two or more appeals pending before the Board are the same or similar, the Board may consolidate the appeals, either on motion by a party or at the initiative of the Board.

[75 FR 64665, Oct. 20, 2010]

§ 4.405 Extensions of time.

(a) If a document other than a notice of appeal is required to be filed or served within a definite time, a party may seek additional time by filing with the Board a motion requesting an extension of time.